



House Transportation and Infrastructure Committee

Statement of Dr. Phineas Baxandall, Senior Tax and Budget Analyst, U.S. Public Interest Research Group

218 D Street, SE
Washington, D.C. 20003
(202) 546-9707
Phineas@PIRG.org

Testimony Regarding "H.R. 6707, the Taking Responsible Action for Community Safety Act (TRACS Act)"

September 9, 2008

Chairman Oberstar, Representative Mica and members of the committee: Thank you for the invitation to present the views of the U.S. Public Interest Research Group on how the TRACS Act would impact the public interest. As you know, U.S. PIRG serves as the federal lobbying office for state Public Interest Research Groups. We are non-profit and non-partisan public interest advocacy groups supported by citizen members and active in over twenty states around the country.

U.S. PIRG believes that rail is critical to America's transportation future and that federal policy must ensure that key decisions affecting the nation's rail network consider the public interest. As such, U.S. PIRG speaks today in support of the TRACS Act.

Transportation patterns have profound implications that extend far beyond individual rail companies and their shareholders. Impacts also extend beyond the local communities that abut transportation routes. Rail plays an increasing role in addressing important national issues that extend beyond local traffic, rights of way, and industry competitiveness.

For instance, major decisions about our nation's rail significantly determine how dependent Americans will be on the rising cost of oil, much of which will continue to come from unstable or unfriendly foreign regimes. Our rail network will shape regional patterns of residential and commercial development. It will profoundly affect the quantity of global warming pollution we emit, the range of travel choices available to our aging population, and the degree that America's dynamic urban centers will be integrated with their surrounding suburbs and rural areas. These are issues that are best considered by a national decision making body, one such as the Surface Transportation Board.

In the years ahead America will need to greatly expand its rail network: not just the portion of freight tonnage hauled by rail; but also more and better commuter service on tracks often owned by freight companies; and finally to build out our nation's high speed

rail corridors in ways that stimulate regional economies and relieve short-haul traffic in our distressed air travel industry.

U.S. PIRG takes no position on the application filed by the Canadian National Railway Corporation to acquire Elgin, Joliet & Eastern Railway. On the one hand, a merger would provide opportunity to relieve gridlock in the nation's most important rail hub inside Chicago by routing rail traffic around its suburban circumference. On the other hand, the abutting communities will be unaccustomed and unprepared for the resulting level of freight rail traffic. Over the long term, the most significant implications for the broader public interest may be how this proposed acquisition could prevent attainment of a decades-long vision to connect communities around Chicago's circumference through a Suburban Transit Access Route (STAR).

In the particular Northeastern Illinois context, we applaud the fact that Canadian National is striking voluntary deals with individual communities along the route, such as the city of Joliet, to improve affected traffic crossings and reduce noise. We don't, however, think that these ad hoc local deals can be a substitute for federal-level attention to national priorities. Nor is it likely that current side deals would have been struck so readily if not for this pending legislation.

Beyond Illinois, the broader issue is whether future mergers and acquisitions in the rail industry will serve the public interest or only the short-term interests of rail company stockholders. These two interests often overlap, but we can not treat them as identical. Like laws for other natural monopolies like utilities and telecomm, this legislation provides important oversight to ensure that mergers would advance rather than undermine the public interest.

Since the Nineteenth Century, public leaders have learned the hard way that railroads are natural monopolies that create society-wide impacts and that mergers can indirectly harm the public interest. Rail is a natural monopoly because there is virtually no means to compete for service on a particular route once another company owns the tracks. Competition does not ensure efficient outcomes because it is extremely inefficient for multiple firms to compete for the same route over duplicate tracks.

But the issue is not just that railroad acquisitions can be anti-competitive. The danger is not only that railroads can extract monopoly rents from shippers and consumers. Current law, in any event, already gives the Surface Transportation Board authority to deny certain mergers that would be anti-competitive. The TRACS Act would address the fact that mergers can also undermine the public interest by affecting how railway companies reroute traffic, maintain existing tracks, or develop new lines. The legislation would appropriately empower the Surface Transportation Board to consider the broader public interest, including the impacts on commuter and intercity rail. This makes sense as we look toward the challenges of the future and the role that transportation must play in meeting those challenges.

Thank you for the opportunity to share these comments with the committee.